IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 5196 (S/S) of 2001
Old No. 40050 of 1998

Chandan Lal,
S/o Sri Madan Ram,
Resident of Village Sarson,
Post Office – Almora,
District – Almora. ...Petitioner

Versus

1. The Director, Samaj Kalyan, U.P., Lucknow,
2. The Additional Director, Samaj Kalyan, Uttrakhand, Nainital.
3. The Deputy Director, Samaj Kalyan, Kamaun Mandal, Nainital.

...Respondents

Sri Manoj Tiwari, learned counsel for the petitioner.
Learned Standing Counsel for the State.

Hon'ble M.M. Ghildiyal, J.

Heard Sri Manoj Tiwari learned counsel for the petitioner and learned Standing Counsel for State.

By means of this writ petition the petitioner has prayed to issue a writ in the nature of Certiorari quashing the order dated 31.8.1998 and 5.11.1998, passed by respondent no. 3 – Deputy Director, Samaj Kalyan, Kumaun Mandal, Nainital.

Vide order dated 31.8.1998, respondent no. 3 - Deputy Director, Samaj Kalyan cancelled his earlier order dated 18.12.1997, which is the appointment order for short term arrangement of petitioner on the post of Village Development Officer for 89 days. This order was

passed after the petitioner has served in the Department for 89 days and was given regular appointment on the post of Village Development Officer in pursuance to the order dated 16.5.1998 passed by Deputy Director, Samaj Kalyan – respondent no. 3.

Vide order dated 5.11.1998, the same Authority i.e. Deputy Director cancelled his earlier order dated 16.5.1998 stating therein that the extension in service on the post of Village Development Officer is cancelled.

Learned Standing Counsel has submitted that Respondent no. 3 has cancelled the order dated 16.5.1998 by which the petitioner was granted extension of service and petitioner was not appointed on the substantive vacancy on the contrary learned counsel for the petitioner has submitted that order dated 16.5.1998 is an appointment order of the petitioner on regular basis on the post of Village Development Officer and not the order of extension in the service. Order dated 16.5.1998 which is annexed along with writ petition is not extension of service of petitioner on the contrary by this order regular appointment on temporary was provided to the petitioner.

It has been further submitted by the respondent that the appointment of the petitioner was not made by the Competent Authority, on the other hand learned counsel for the petitioner has submitted that no opportunity of hearing or notice has been given to the petitioner prior to cancellation of his appointment.

Since the petitioner was given regular appointment vide order dated 16.5.1998 respondents were not right in cancelling the appointment order of the petitioner saying that it was extension of the service granted to the petitioner.

In view of the aforesaid facts and circumstances I find force in the argument of the learned counsel of petitioner that services of the petitioner have been terminated without giving any opportunity of hearing or notice to him.

Learned counsel for the petitioner has submitted that posts are lying vacant in the department and the petitioner can be absorbed against those posts to which learned Standing has no objection.

In view of the facts and circumstances stated above, orders dated 31.8.1998 and 5.11.1998 passed by Deputy Director, Samaj Kalyan, Kumaun Mandal, Nainital – respondent no. 3 are quashed.

Respondents are directed to appoint the petitioner on the post of Village Development Officer, against the posts which are in existence in the Department.

With this direction the writ petition is finally disposed of.

(M.M. Ghildiyal, J.)

November 30, 2004:
S.K.Sharma